

## OFFER TO PURCHASE

THE UNDERSIGNED, The City of Galena, Illinois, a municipal corporation, hereinafter referred to as "Buyer," hereby offers and agrees to purchase from The Chicago Central and Pacific Railroad Company (CCP), hereinafter referred to as "Seller," the real property commonly known as Block 2 and Parts of Lots 10, 11, 12 and 1, a more specific description is attached hereto as Exhibit "A", fully incorporated herein by this reference.

**PURCHASE PRICE:** The purchase price is Nine Hundred and 00/100 Dollars (\$900.00), subject to the existing zoning and use restrictions and easements of record and the contingencies set forth herein, upon the following conditions:

**CONSUMMATION OF SALE:** The sale shall be consummated by payment of Two Hundred Fifty and 00/100 and Dollars (\$250.00) along with this contract as a security deposit. The remaining sum of Six Hundred Fifty and 00/100 Dollars (\$650.00) shall be paid to Seller at closing.

**CLOSING:** Closing shall be on or before March 29, 2002, or on the date, if any, to which such date is extended by reason of problems which have arisen with regard to the status of the title of the premises described herein, provided title has been shown to be good or is accepted "as is" by Buyer. Unless subsequently mutually agreed otherwise, the closing shall take place at the office of Hammer, Simon & Jensen, 303 N. Bench Street, Galena, Illinois.

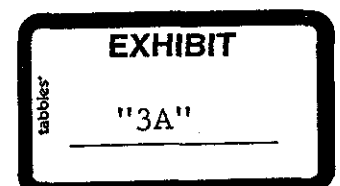
**POSSESSION:** Possession shall be given to Buyer immediately following closing.

**SURVEY:** Seller shall not be required to furnish a survey to the Buyer or to have the property staked so as to show the perimeter boundary locations.

**CLOSING INSPECTION & CONDITION:** At a pre-arranged reasonable time after acceptance of this Offer, Buyer shall have the right to inspect the premises so as to evaluate whether or not there are any environmental concerns. Buyer and Seller shall determine a mutually agreeable time to conduct such inspection.

### **ADDITIONAL CONDITIONS:**

- (a) The amount specified as the purchase price or the certified fair market value is supported by the accompanying appraisal conducted by Hertz Appraisal Services, 103 South Center Street, Geneseo, Illinois 61254, dated November 1, 2001.
- (b) The purpose of the acquisition is for a recreational trail for biking, hiking, walking, jogging and cross-country skiing.



- (c) Further inquiry regarding this Offer, on behalf of the City, should be directed to Mr. Richard Auman, Mayor, City of Galena, 312½ North Main Street, Galena, Illinois 61036.
- (d) Accompanying this Offer and made an integral part is a statement of just compensation which is attached to this Offer to Purchase.
- (e) The deed conveyed must contain a use restriction and covenant that reads as follows:

“The real property described herein must be maintained for public outdoor recreation use purposes only as prescribed by the State of Illinois, Department of Natural Resources, under terms of the State’s bike path (BP Grant Program) and shall not be sold or exchanged or have other encumbrances placed on the title, in whole or in part, which divests control or interest in the property to another party without prior approval from the State of Illinois, Department of Natural Resources or its successor.”

**COMPLIANCE:** Seller and Buyer agree to provide all information necessary to complete and execute all documents and perform all actions necessary to comply with the following:

- (a) Real Estate Settlement Procedures Act of 1974.
- (b) Any and all Internal Revenue forms applicable.
- (c) A mutually agreeable summary of the closing transaction.
- (d) All laws, statutes, ordinances, rules and regulations applicable to this transaction.

**SELLER REPRESENTATIONS:** Seller represents to Buyer as of the date of Seller’s execution of this Offer to Purchase as follows:

- (a) There are no underground storage tanks on the premises.
- (b) The premises are not contaminated with any hazardous substances.

**STATUS OF TITLE:** Title to the real estate when conveyed may be subject only to the following:

- (a) Plat restrictions.
- (b) Perimeter public utility easements which do not underlie the existing improvements.

- (c) Restrictions and covenants of record, provided they are not violated by the existing improvements or the present use thereof and provided further that they do not contain a reverter or right of re-entry.
- (d) Special assessments and taxes for improvements not yet completed.
- (e) Seller shall deliver a recordable Warranty Deed (or Trustee's or Executor's Deed, if applicable) sufficient to convey the real estate to Buyers, in fee simple, subject only to exceptions permitted herein, at the closing of this transaction upon Buyers' compliance with the terms of this Contract. If personal property is to be conveyed as a part of this transaction, Seller shall also deliver a warranty Bill of Sale. Seller shall also provide at their expense the state and county transfer tax declarations and any other transfer tax declaration, zoning certificate, or exemption that may be necessary for recording.

**PRORATIONS:** General real estate taxes (based upon tax assessor's latest evaluation and latest known tax rate), water, taxes, and proratable items shall be prorated to the date of closing. All prorations are final unless otherwise provided herein.

**EVIDENCE OF TITLE:** Buyer, at their own expense, shall prepare and pay for the following documents to evidence the condition of the Seller's title:

- (a) A commitment for title insurance for the real estate issued by a title insurance company licensed to do business in the State of Illinois, bearing date on or subsequent to the date hereof, in the amount of the purchase price and showing title in the intended grantor, subject only to the general exceptions set forth above and exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of closing. Such title commitment shall be conclusive evidence of merchantable title, except for matters not covered or insured thereby.
- (b) Such other documents as are reasonably required for the issuance of a Title Insurance Policy.

If the evidence of title discloses unpermitted exceptions, Seller shall have 30 days from the date of delivery thereof to have the exceptions removed from the commitment or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions, and, in such event, the time of closing shall be 35 days after delivery of the commitment or the title specified in Paragraph **CLOSING**. If Seller fails to have the exceptions removed, or in the alternative, to obtain the commitment for title insurance specified above as to such exceptions within the specified time, Buyer may terminate this contract or may elect upon notice to Seller within ten days after the expiration of the 30 day period, to take title as it then is with the right to deduct from the purchase price lien or encumbrances of a definite or ascertainable amount. If Buyer does not so elect, this contract shall become null and void without further actions of the parties.

**REAL ESTATE COMMISSION:** Seller and Buyer warrant that neither has engaged the services of a real estate broker and no commission is due and owing.

**DEFAULT:** If the Buyer defaults, all earnest money shall be forfeited and applied pursuant to the terms of the listing agreement, if any, and to the payment of any expenses incurred by Seller or his agents; and because of the difficulty of ascertaining the exact amount of actual damages sustained by Seller, it is agreed that Buyer shall relinquish any and all monies deposited by them under this contract. Such monies shall be deemed to represent damages sustained, provided, however, that this provision with the respect to liquidated damages shall not be the exclusive remedy of Seller, and Seller shall retain all monies deposited without prejudice to his other remedies. If Seller defaults, the earnest money, at the option of the Buyer, shall be refunded to Buyer, but such refunding shall not release Seller from his obligations under this Contract nor foreclose the right of Buyer to pursue other legal remedies.

**SURVIVAL OF CONTRACT TERMS:** All agreements, representations and warranties made herein shall be deemed to be remade at the closing and shall survive the closing.

**TIME:** Time is of the essence of this Contract.

**NOTICES:** All notices herein required shall be in writing and shall be served, unless otherwise provided, on the parties or their respective attorneys, if any, personally or by certified or registered mail (return receipt requested). Notice shall be deemed given on the date of actual receipt.


**BINDING ON SUCCESSORS OR ASSIGNS:** The covenants herein shall be binding on the executors, administrators, successors, and assigns of the respective parties to this Offer to Purchase.

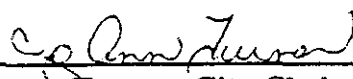
This Offer by the Buyer shall remain open until February 22, 2002 at 4:30 p.m. at which time it shall be revoked unless accepted by Seller.

DATED this 14<sup>th</sup> day of Feb., 2002.

**BUYER:**

**CITY OF GALENA, ILLINOIS**

BY:   
Richard D. Auman, Mayor

  
JoAnn Turner, City Clerk

**ACCEPTANCE OF OFFER**

The foregoing Offer is hereby accepted and the Seller agrees to sell the premises upon the terms stated. By execution of this Agreement, the Seller acknowledges a receipt of a copy of this Agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

**SELLER:**

**CHICAGO CENTRAL and  
PACIFIC RAILROAD COMPANY**

BY: \_\_\_\_\_

**STATEMENT OF JUST COMPENSATION  
SUMMARY OF PROPERTY ACQUISITION AND OFFER TO PURCHASE**

Project: BP 00-260

County: Jo Daviess

Parcel # Not Available

OWNER(S) OF REAL PROPERTY: Chicago Central and Pacific Railroad Company "CCP"

LOCATION OF PROPERTY: Block 2 Parts of Lot 10, 11, 12 and 1

In compliance with Sec. 301 of the federal Relocation Assistance & Real Property Acquisition Policies Act (P.L. 91-646, 49 CFR 24) and/or the Illinois Displaced Persons Relocation Act (310 ILCS 40 et. seq.), the following summary has been prepared to fully inform you, the seller, of the details of the acquisition of (a portion of) your property for a recreational trail (bike, hiking, walking, jogging and cross country skiing) purposes. *The legal description of the parcel to be acquired is attached hereto.*

**1. Existing Property:**

Total Size/Area: .3 acres (acres/sq. ft.) more or less  
Highest and Best Use as appraised: recreational  
Fair Market Value of Entire Property\* \$ 900.00

\*Fair Market Value of Entire Property is based upon a State-approved appraisal and is not less than the appraiser's opinion of fair market value which was determined after a personal inspection of your property, at which time you or your representative were given the opportunity to accompany the appraiser. The appraisal takes into consideration the location of your property, its highest and best use, current land sales of properties similar to your property and other indicators of values as may be necessary. (i.e., \_\_\_\_\_).

**2. Land to be Acquired:** Fee simple interest in  
Estate or Interest to be acquired: railroad lots owned by "CCP"  
Total Land Areas to be acquired: .3 acres (acres/sq. ft.)

**3. Major Improvements and All Fixtures to be acquired:** N/A

**4. Compensation for Property Acquired ( .3 acres acres/sq. ft.):**

Fair Market Value, including all improvements, as part of the Whole Property: \$ 900.00  
Damage to the remaining property as a result of the acquisition: \$ N/A  
Total compensation for the property acquired: \$ 900.00  
\*(See attached Appraisal Report prepared by Hertz Appraisal Services)

**5. Other Consideration:**

( N/A ) \$ N/A  
( N/A ) \$ N/A  
Total Other Consideration: \$ N/A

**6. Total Just Compensation for Entire Acquisition:** \$ 900.00  
(includes all interests in the land required for the proposed public project, and damage to the remaining property, if any)

*Any increase or decrease in the market valuation caused by the public improvement or project for which property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded in making the determination of just compensation.*

Statement of Just Compensation & Offer to Purchase

Page 2

Project: BP 00-260  
Parcel #: \_\_\_\_\_

You may wish to retain and remove some, or all, of the improvements included in the acquisition. If so, the following owner-retention values have been established for the improvements listed above in Item 3, and the total of the owner-retention values for the improvements retained will be deducted from the total compensation.

<u>IMPROVEMENT</u>	<u>OWNER-RETENTION VALUE</u>
<u>N/A</u>	<u>\$ N/A</u>
<u>N/A</u>	<u>\$ N/A</u>
<u>N/A</u>	<u>\$ N/A</u>

NOTE: Any agreement to retain such improvements does not convey with it a permit to move the improvements on, or over any State highway. It is suggested that you contact the Illinois Dept. of Transportation district office nearest you for information regarding application for a permit if one is needed.

On behalf of the City of Galena I hereby offer the property owner the total sum of \$ 900.00 determined as the fair market value by an independent appraisal, for the property described on the attached instrument(s), free and clear of all claims of other parties, liens, taxes and encumbrances.

PRESENTED BY: Richard D. Auman, Mayor  
(Chief Elected Official)

[Signature]  
(Signature)

DATE: 2/14/02

STATEMENT OF OWNER

I have read the preceding summary describing how this appraised value was established and was offered the stated value of \$ \_\_\_\_\_. I further state that:

There are no persons living on the property.

There are no businesses being conducted on the property by others.

The following persons are living or conducting business on the property (including owner if in occupancy). Give name and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed \_\_\_\_\_  
Owner or Representative

\_\_\_\_\_  
Address

Please note that the signing of this statement by the owner (or representative) DOES NOT constitute an acceptance of the herein stated offer to purchase.

## Waiver of Rights to Just Compensation

RE: Project # BP 00-260

Parcel # \_\_\_\_\_

I, \_\_\_\_\_, have been informed of all my rights and benefits under the  
(seller / grantor )  
federal "*Uniform Relocation Assistance and Real Properties Acquisition Policy Act of 1970*", as amended, and/or the Illinois  
Displaced Persons Relocation Act and have been provided with a "Statement of Just Compensation" and a written "Offer to  
Purchase" on the subject property for the appraised value of \$ \_\_\_\_\_  
(Amount)

Of my own choice, I have elected to accept an amount less than the specified appraised fair market value for the following  
reason(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature of Seller/Grantor)

\_\_\_\_\_  
(Date)



## OFFER TO PURCHASE

THE UNDERSIGNED, The City of Galena, Illinois, a municipal corporation, hereinafter referred to as "Buyer," hereby offers and agrees to purchase from The Chicago Central and Pacific Railroad Company (CCP), hereinafter referred to as "Seller," the real property commonly known as Block 2, Lot 3 and Parts of Lot 1, 2, 9 and 10, a more specific description is attached hereto as Exhibit "A", fully incorporated herein by this reference.

**PURCHASE PRICE:** The purchase price is One Thousand Five Hundred Forty and 00/100 Dollars (\$1,540.00), subject to the existing zoning and use restrictions and easements of record and the contingencies set forth herein, upon the following conditions:

**CONSUMMATION OF SALE:** The sale shall be consummated by payment of Two Hundred Fifty and 00/100 Dollars (\$250.00) along with this contract as a security deposit. The remaining sum of One Thousand Two Hundred Ninety and 00/100 Dollars (\$1,290.00) shall be paid to Seller at closing.

**CLOSING:** Closing shall be on or before March 29, 2002, or on the date, if any, to which such date is extended by reason of problems which have arisen with regard to the status of the title of the premises described herein, provided title has been shown to be good or is accepted "as is" by Buyer. Unless subsequently mutually agreed otherwise, the closing shall take place at the office of Hammer, Simon & Jensen, 303 N. Bench Street, Galena, Illinois.

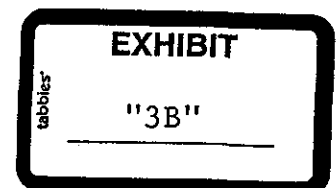
**POSSESSION:** Possession shall be given to Buyer immediately following closing.

**SURVEY:** Seller shall not be required to furnish a survey to the Buyer or to have the property staked so as to show the perimeter boundary locations.

**CLOSING INSPECTION & CONDITION:** At a pre-arranged reasonable time after acceptance of this Offer, Buyer shall have the right to inspect the premises so as to evaluate whether or not there are any environmental concerns. Buyer and Seller shall determine a mutually agreeable time to conduct such inspection.

### **ADDITIONAL CONDITIONS:**

- (a) The amount specified as the purchase price or the certified fair market value is supported by the accompanying appraisal conducted by Hertz Appraisal Services, 103 South Center Street, Geneseo, Illinois 61254, dated November 1, 2001.
- (b) The purpose of the acquisition is for a recreational trail for biking, hiking, walking, jogging and cross-country skiing.



- (c) Further inquiry regarding this Offer, on behalf of the City, should be directed to Mr. Richard Auman, Mayor, City of Galena, 312½ North Main Street, Galena, Illinois 61036.
- (d) Accompanying this Offer and made an integral part is a statement of just compensation which is attached to this Offer to Purchase.
- (e) The deed conveyed must contain a use restriction and covenant that reads as follows:

“The real property described herein must be maintained for public outdoor recreation use purposes only as prescribed by the State of Illinois, Department of Natural Resources, under terms of the State’s bike path (BP Grant Program) and shall not be sold or exchanged or have other encumbrances placed on the title, in whole or in part, which divests control or interest in the property to another party without prior approval from the State of Illinois, Department of Natural Resources or its successor.”

**COMPLIANCE:** Seller and Buyer agree to provide all information necessary to complete and execute all documents and perform all actions necessary to comply with the following:

- (a) Real Estate Settlement Procedures Act of 1974.
- (b) Any and all Internal Revenue forms applicable.
- (c) A mutually agreeable summary of the closing transaction.
- (d) All laws, statutes, ordinances, rules and regulations applicable to this transaction.

**SELLER REPRESENTATIONS:** Seller represents to Buyer as of the date of Seller’s execution of this Offer to Purchase as follows:

- (a) There are no underground storage tanks on the premises.
- (b) The premises are not contaminated with any hazardous substances.

**STATUS OF TITLE:** Title to the real estate when conveyed may be subject only to the following:

- (a) Plat restrictions.
- (b) Perimeter public utility easements which do not underlie the existing improvements.

- (c) Restrictions and covenants of record, provided they are not violated by the existing improvements or the present use thereof and provided further that they do not contain a reverter or right of re-entry.
- (d) Special assessments and taxes for improvements not yet completed.
- (e) Seller shall deliver a recordable Warranty Deed (or Trustee's or Executor's Deed, if applicable) sufficient to convey the real estate to Buyers, in fee simple, subject only to exceptions permitted herein, at the closing of this transaction upon Buyers' compliance with the terms of this Contract. If personal property is to be conveyed as a part of this transaction, Seller shall also deliver a warranty Bill of Sale. Seller shall also provide at their expense the state and county transfer tax declarations and any other transfer tax declaration, zoning certificate, or exemption that may be necessary for recording.

**PRORATIONS:** General real estate taxes (based upon tax assessor's latest evaluation and latest known tax rate), water, taxes, and proratable items shall be prorated to the date of closing. All prorations are final unless otherwise provided herein.

**EVIDENCE OF TITLE:** Buyer, at their own expense, shall prepare and pay for the following documents to evidence the condition of the Seller's title:

- (a) A commitment for title insurance for the real estate issued by a title insurance company licensed to do business in the State of Illinois, bearing date on or subsequent to the date hereof, in the amount of the purchase price and showing title in the intended grantor, subject only to the general exceptions set forth above and exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of closing. Such title commitment shall be conclusive evidence of merchantable title, except for matters not covered or insured thereby.
- (b) Such other documents as are reasonably required for the issuance of a Title Insurance Policy.

If the evidence of title discloses unpermitted exceptions, Seller shall have 30 days from the date of delivery thereof to have the exceptions removed from the commitment or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions, and, in such event, the time of closing shall be 35 days after delivery of the commitment or the title specified in Paragraph CLOSING. If Seller fails to have the exceptions removed, or in the alternative, to obtain the commitment for title insurance specified above as to such exceptions within the specified time, Buyer may terminate this contract or may elect upon notice to Seller within ten days after the expiration of the 30 day period, to take title as it then is with the right to deduct from the purchase price lien or encumbrances of a definite or ascertainable amount. If Buyer does not so elect, this contract shall become null and void without further actions of the parties.

**REAL ESTATE COMMISSION:** Seller and Buyer warrant that neither has engaged the services of a real estate broker and no commission is due and owing.

**DEFAULT:** If the Buyer defaults, all earnest money shall be forfeited and applied pursuant to the terms of the listing agreement, if any, and to the payment of any expenses incurred by Seller or his agents; and because of the difficulty of ascertaining the exact amount of actual damages sustained by Seller, it is agreed that Buyer shall relinquish any and all monies deposited by them under this contract. Such monies shall be deemed to represent damages sustained, provided, however, that this provision with the respect to liquidated damages shall not be the exclusive remedy of Seller, and Seller shall retain all monies deposited without prejudice to his other remedies. If Seller defaults, the earnest money, at the option of the Buyer, shall be refunded to Buyer, but such refunding shall not release Seller from his obligations under this Contract nor foreclose the right of Buyer to pursue other legal remedies.

**SURVIVAL OF CONTRACT TERMS:** All agreements, representations and warranties made herein shall be deemed to be remade at the closing and shall survive the closing.

**TIME:** Time is of the essence of this Contract.

**NOTICES:** All notices herein required shall be in writing and shall be served, unless otherwise provided, on the parties or their respective attorneys, if any, personally or by certified or registered mail (return receipt requested). Notice shall be deemed given on the date of actual receipt.


**BINDING ON SUCCESSORS OR ASSIGNS:** The covenants herein shall be binding on the executors, administrators, successors, and assigns of the respective parties to this Offer to Purchase.

This Offer by the Buyer shall remain open until February 22, 2002 at 4:30 p.m. at which time it shall be revoked unless accepted by Seller.

DATED this 14<sup>th</sup> day of Feb., 2002.

**BUYER:**

**CITY OF GALENA, ILLINOIS**

BY:   
Richard D. Auman, Mayor

  
JoAnn Turner, City Clerk

**ACCEPTANCE OF OFFER**

The foregoing Offer is hereby accepted and the Seller agrees to sell the premises upon the terms stated. By execution of this Agreement, the Seller acknowledges a receipt of a copy of this Agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

**SELLER:**

**CHICAGO CENTRAL and  
PACIFIC RAILROAD COMPANY**

BY: \_\_\_\_\_

**STATEMENT OF JUST COMPENSATION  
SUMMARY OF PROPERTY ACQUISITION AND OFFER TO PURCHASE**

Project: BP 00-260

County: Jo Daviess

Parcel # Not Available

OWNER(S) OF REAL PROPERTY: Chicago Central and Pacific Railroad Company "CCP"

LOCATION OF PROPERTY: Block 2 Lots 3 and parts of Lots 1, 2, 9 and 10

In compliance with Sec. 301 of the federal Relocation Assistance & Real Property Acquisition Policies Act (P.L. 91-646, 49 CFR 24) and/or the Illinois Displaced Persons Relocation Act (310 ILCS 40 et seq.), the following summary has been prepared to fully inform you, the seller, of the details of the acquisition of (a portion of) your property for a recreational trail (bike, hiking, walking, jogging and cross country skiing) purposes. *The legal description of the parcel to be acquired is attached hereto.*

**1. Existing Property:**

Total Size/Area: .616 acres (acres/sq. ft.) more or less

Highest and Best Use as appraised: recreational

Fair Market Value of Entire Property\* \$ 1,540.00

\*Fair Market Value of Entire Property is based upon a State-approved appraisal and is not less than the appraiser's opinion of fair market value which was determined after a personal inspection of your property, at which time you or your representative were given the opportunity to accompany the appraiser. The appraisal takes into consideration the location of your property, its highest and best use, current land sales of properties similar to your property and other indicators of values as may be necessary, (i.e., \_\_\_\_\_).

**2. Land to be Acquired:**

Estate or Interest to be acquired: Fee simple interest in a railroad bed and lots owned by CCP

Total Land Areas to be acquired: .616 acres (acres/sq. ft.)

**3. Major Improvements and All Fixtures to be acquired:** N/A

**4. Compensation for Property Acquired ( .616 acres acres/sq.ft.):**

Fair Market Value, including all improvements, as part of the Whole Property: \$ 1,540.00

Damage to the remaining property as a result of the acquisition: \$ N/A

Total compensation for the property acquired: \$ 1,540.00

**5. Other Consideration:**

( N/A ) \$ N/A

( N/A ) \$ N/A

Total Other Consideration: \$ N/A

**6. Total Just Compensation for Entire Acquisition:** \$ 1,540.00  
(includes all interests in the land required for the proposed public project, and damage to the remaining property, if any)

*Any increase or decrease in the market valuation caused by the public improvement or project for which property is to be acquired, or by the likelihood that the property would be acquired for such improvement or project, other than that due to physical deterioration within the reasonable control of the owner, has been disregarded in making the determination of just compensation.*

Statement of Just Compensation & Offer to Purchase

Page 2

Project: BP 00-260  
Parcel #: \_\_\_\_\_

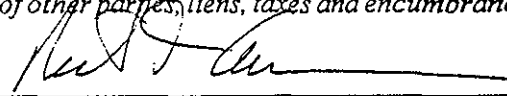
You may wish to retain and remove some, or all, of the improvements included in the acquisition. If so, the following owner-retention values have been established for the improvements listed above in Item 3, and the total of the owner-retention values for the improvements retained will be deducted from the total compensation.

<u>IMPROVEMENT</u>	<u>OWNER-RETENTION VALUE</u>
<u>N/A</u>	<u>\$ N/A</u>
<u>N/A</u>	<u>\$ N/A</u>
<u>N/A</u>	<u>\$ N/A</u>

NOTE: Any agreement to retain such improvements does not convey with it a permit to move the improvements on, or over any State highway. It is suggested that you contact the Illinois Dept. of Transportation district office nearest you for information regarding application for a permit if one is needed.

On behalf of the City of Galena I hereby offer the property owner the total sum of \$ 1,540.00 determined as the fair market value by an independent appraisal, for the property described on the attached instrument(s), free and clear of all claims of other parties, liens, taxes and encumbrances.

PRESENTED BY: Richard D. Auman, Mayor  
(Chief Elected Official)

  
(Signature)

DATE: 2/17/02

STATEMENT OF OWNER

I have read the preceding summary describing how this appraised value was established and was offered the stated value of \$ \_\_\_\_\_. I further state that:

There are no persons living on the property.

There are no businesses being conducted on the property by others.

The following persons are living or conducting business on the property (including owner if in occupancy). Give name and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed \_\_\_\_\_  
Owner or Representative

\_\_\_\_\_  
Address

Please note that the signing of this statement by the owner (or representative) DOES NOT constitute an acceptance of the herein stated offer to purchase.

## Waiver of Rights to Just Compensation

RE: Project # BP 00-260

Parcel # \_\_\_\_\_

I, \_\_\_\_\_, have been informed of all my rights and benefits under the  
(seller / grantor)  
federal "*Uniform Relocation Assistance and Real Properties Acquisition Policy Act of 1970*", as amended, and/or the Illinois  
Displaced Persons Relocation Act and have been provided with a "Statement of Just Compensation" and a written "Offer to  
Purchase" on the subject property for the appraised value of \$ \_\_\_\_\_.  
(Amount)

Of my own choice, I have elected to accept an amount less than the specified appraised fair market value for the following  
reason(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Signature of Seller/Grantor)

\_\_\_\_\_  
(Date)



Ordinance #0-02-14

**An Ordinance Authorizing the Condemnation of Certain Property for the Purpose of  
Constructing A Recreation Trail.**

Adopted by the City Council of the City of Galena this 10th day of June 2002.

Published in pamphlet form by authority of the City Council of the City of Galena,  
Jo Daviess County, Illinois, this 10th day of June 2002.

STATE OF ILLINOIS )

City of Galena

COUNTY OF JO DAVIESS )

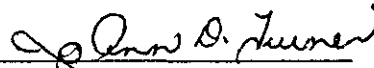
**CERTIFICATE**

I, Jo Ann Turner, certify that I am the duly elected and acting municipal clerk of the City  
of Galena, Jo Daviess County, Illinois.

I further certify that on the 10th day of June 2002, the Corporate Authorities of said  
municipality passed and approved Ordinance No. 0-02-14 entitled "**Authorizing the  
Condemnation of Certain Property for the Purpose of Constructing A Recreation  
Trail.**" which provided by its terms that it should be published in pamphlet form.

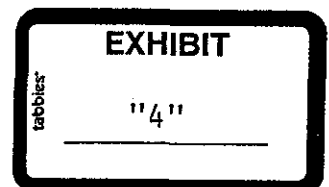
The pamphlet form of Ordinance No. 0-02-14, including the Ordinance and a cover sheet  
thereof, was prepared, and a copy of such Ordinance was posted in the municipal  
building, commencing the 10th day of June 2002 and commencing for at least ten (10)  
days thereafter.

Dated at Galena, Illinois, this 10th day of June 2002.



Jo Ann Turner  
City Clerk

(Seal)



ORDINANCE NO. 0-02-14  
**AN ORDINANCE AUTHORIZING THE  
CONDEMNATION OF CERTAIN PROPERTY  
FOR THE PURPOSE OF CONSTRUCTING  
A RECREATIONAL TRAIL**

**BE IT ORDAINED** by the City Council of the City of Galena, Jo Daviess County, Illinois, as follows:

**WHEREAS**, the City of Galena (hereinafter referred to as "City") is a municipal corporation duly organized and existing under the laws of the State of Illinois and as such may exercise the right of eminent domain by condemnation proceedings in accordance with the Illinois Municipal Code Section 65 ILCS 5/11-61.1; and

**WHEREAS**, the City has been successful in obtaining an Illinois Department of Natural Resources – Open Space Land Acquisition and Development Grant (OSLAD) for the purpose of acquiring open space for purposes of recreational trails; and

**WHEREAS**, the City is desirous of constructing said recreational trail to be used as a bike and walking path and to be incorporated into the Grand Illinois Trail System, and to that end needs to acquire certain property; and

**WHEREAS**, Section 5/11-94-1 authorizes a municipality to condemn property for purposes of providing recreational facilities; and

**WHEREAS**, the City is in need of certain real estate owned by Chicago Central and Pacific Railroad Company, a Delaware corporation, for the purpose of acquiring the property for the recreational facility; and

**WHEREAS**, the City and the Chicago Central and Pacific Railroad Company have been unable to agree upon just compensation for the property which the City needs to acquire; and

**WHEREAS**, the City has determined that it is necessary to acquire said railroad property by fee title.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF GALENA, ILLINOIS, AS FOLLOWS:**

**SECTION 1:** The City is in need of property described as Lots 1, 2, 3, 9, 10, 11 and 12, Block 2 of the Original City of Galena, East side of the Galena River, Jo Daviess County, Illinois. **EXCEPTING THEREFROM THE FOLLOWING:** A part of Block 2 of the original City of Galena beginning at the Northwest corner of Block 2 of the original City of Galena East side of the Galena River, Jo Daviess County, Illinois; thence South 04°14'45" West, along the West line of said Block 2, a distance of 45.89 feet;

thence Northeasterly, along a curve concave to the Northwest, an arc length of 76.41 feet to a point on the North line of said Block 2; said curve having a radius of 400.00 feet, a central angle of 10°56'43", and whose long chord bears North 57°29'25" East, 76.30 feet from the last described course; thence North 85°32'00" West, along said North line of Block 2, a distance of 61.13 feet to the point of beginning, said tract containing 0.034 acres, more or less, all being situated in Jo Daviess County, Illinois; ALSO EXCEPTING THEREFROM THE FOLLOWING: A fifty foot wide right-of-way in favor of the Chicago Central and Pacific Railroad Company, together with all rights, privileges and appurtenances thereto belonging or otherwise appertaining; situated in the County of Jo Daviess in the State of Illinois.

Furthermore, The City is in need of a thirty (30) foot easement for said recreational facility purposes running under the railroad track perpendicular to the Northwest property line of Lots 8, 9, 10, 11 and 12. Said easement shall have a length of thirty (30) feet.

**SECTION 2:** The City has been unable to come to an agreement with Chicago Central and Pacific Railroad Company on just compensation to be paid for the real property.

**SECTION 3:** The City has determined that it is necessary, convenient and desirable to acquire the subject property by fee title and take possession of the real property described herein for the purpose of constructing a recreational facility to be used as a bicycle and recreation trail as a part of the Grand Illinois Trail System.

**SECTION 4:** The City of Galena, by and through its municipal authorities, authorize the City Attorney to commence eminent domain proceedings in the Jo Daviess County Circuit Court against Chicago Central and Pacific Railroad Company to acquire the subject real property for the aforesaid purposes.

**SECTION 5:** Pursuant to statute, the City has requested authorization from the Interstate Commerce Commission to condemn said property. Said condemnation proceedings shall not proceed until authorization is granted for such purposes from the Interstate Commerce Commission.


**SECTION 6:** The City is prepared to pay just compensation to the Chicago Central and Pacific Railroad Company for the property.

**SECTION 7:** This Ordinance shall be in full force and effect upon its passage and legal publication in pamphlet form.

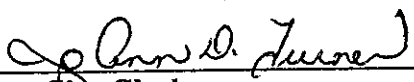
**SECTION 8:** Passed on this 10th day of June, 2002 in open Council

**AYES:** Bookless  
Francomb  
Greene  
O'Keefe  
Seban  
Auman

**NAYS:** Rosenthal

  
\_\_\_\_\_  
**Mayor Richard Auman**

**ATTEST:**

  
\_\_\_\_\_  
**City Clerk**

k:\city\ordinances\condemnation-bikepath

# Chicago Title Insurance Company

## COMMITMENT FOR TITLE INSURANCE

CHICAGO TITLE INSURANCE COMPANY, a corporation of Missouri, herein called the Company, for a valuable consideration hereby commits to issue its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed Insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A upon payment of the premiums and charges therefor, all subject to the provisions of Schedules A and B and to the Conditions and Stipulations hereof.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

IN WITNESS WHEREOF, Chicago Title Insurance Company has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A, the Commitment to become valid when countersigned by an authorized signatory.

Issued by:  
H.B. WILKINSON TITLE COMPANY  
321 N. BENCH  
P.O. BOX 215  
GALENA, IL 61036

*Daniel D. Mennens*

Authorized Signatory



CHICAGO TITLE INSURANCE COMPANY

By:

*Robert A. Scott*

President

By:

*Barry*

Secretary

EXHIBIT

"5"

**CHICAGO TITLE INSURANCE CO.**  
**ALTA Commitment**  
**Schedule A**

**File Number:** 8942

**Refer Title Inquires to:** H. B. Wilkinson Title Company, (815)777-3318

**1. Effective Date:** September 20, 2001

**2. Policy or Policies to be issued:**

- |  |                     |
|--|---------------------|
| <b>a. ALTA Owner's Policy</b>                          | <b>Amount:</b>      |
| <b>Proposed Insured:</b>                               | <b>\$10,000.00.</b> |
| THE CITY OF GALENA, ILLINOIS, a municipal corporation. |                     |
|  |                     |
| <b>b. ALTA Loan Policy</b>                             | <b>Amount:</b>      |
| <b>Proposed Insured:</b>                               | <b>NONE.</b>        |
| NONE.  |                     |

**3. The estate or interest in the land described or referred to in this Commitment and covered herein is a fee simple and title thereto is at the effective date hereof vested in:**

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY.

**4. The land referred to in this Commitment is described as follows:**

**SEE ATTACHED EXHIBIT A**

## EXHIBIT A

All that portion of The Burlington Northern and Santa Fe Railway Company's (formerly Chicago, Burlington & Quincy Railroad Company) Galena Junction to Galena, Illinois Branch Line right of way, now discontinued, varying in width of each side of said Railway Company's Main Track centerline, as originally located and constructed upon over and across Sections 24, 25 and 36, all in Township 28 North, Range 1 West, and in Government Lot 2 of Section 29, Township 28 North, Range 1 East, all of the Fourth Principal Meridian, Jo Daviess County, Illinois, more particularly described as follows, to-wit:

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline, as originally located and constructed upon, over and across the West Half and the North Half Northeast Quarter of said Section 36, and the Southeast Quarter of the Southeast Quarter of said Section 25, bounded on the South by a line drawn parallel with and 350.0 feet normally distant Northerly of the South line of said Section 36, and bounded on the Northeast by the East line of said Section 25, EXCEPTING THEREFROM, that portion lying within 50.0 feet of said Railway Company's Chicago to St. Paul Main Track centerline, as now located and constructed; also,

All that portion of said Railway Company's 150.0 foot wide Branch Line right of way, being 75.0 feet wide on each side of said Main Track centerline, as originally located and constructed upon, over and across the Southwest Quarter of the Southwest Quarter (government Lot 2) of said Section 29, being the same property described in Warranty Deed from Nicholas Riplinger, et ux to the Freeport and Mississippi River Railway Company filed for record November 18, 1908 in Book 54 of Deeds, page 383 in and for said County; also,

All that portion of said Railway Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Main Track centerline, as originally located and constructed upon, over and across the East Half of said Section 25 and the Southeast Quarter of said Section 24, all in Township 28 North, Range 1 West, bounded on the Southeast by the East line of said Section 25, and bounded on the North by the South line of Webster Street in the City of Galena, Illinois; also,

An additional parcel of land situated in the Southeast Quarter of said Section 24, Township 28 North, Range 1 West, being the same property described in Quit Claim Deed from the Chicago & North-Western Railway Company to Chicago, Burlington and Northern Railroad Company filed for record October 17, 1888 in Book 62 of Deeds, page 834 in and for said County, described as follows:

Beginning at the point of intersection of the South line of Webster Street with the Southerly extension of the West boundary of Third Street in the City of Galena; thence Southerly along said Southerly extension of the West boundary of Third Street to the South line of land owned by Ralph L. Morris on the 25<sup>th</sup> day of August, 1854, dividing the land of said Morris from the land of McCarty; thence Westerly on said dividing line to the Easterly bank of Galena (formerly Fever) River; thence Northerly along said Easterly bank to the South boundary of Webster Street; thence Easterly along said South boundary of Webster Street to the place of beginning,

EXCEPTING THEREFROM, the hereinabove described 100.0 foot wide Branch Line right of way.

All of Lots 1 through 12, inclusive, in Block 1, and Lots 4, 5, 6, 7 and 8 in Block 2, on the East side of the Galena River, in the City of Galena, Jo Daviess County, Illinois.



**CHICAGO TITLE INSURANCE CO.**  
**ALTA COMMITMENT**  
**Schedule B**

**File Number: 8942**

**Schedule B of the policy or policies to be issued will contain the exceptions shown on the cover of this Commitment and the following exceptions, unless same are disposed of to the satisfaction of the Company:**

1. Taxes for the year 2001 are a lien, but not yet due and payable.
2. Special assessments and special taxes, if any.
3. Rights of the public, State of Illinois, the County, the Township and the Municipality in and to that part of the premises in question taken, used or dedicated for roads and highways.
4. Easements for public and quasi-public utilities, if any.
5. Rights of way for drainage ditches, drain tiles, feeders, laterals and underground pipes, if any.
6. Easement dated June 8, 1948 and recorded October 26, 1948 in Record Book N, page 136 made by Chicago, Burlington & Quincy Railroad Company. in favor of City of Galena, a municipal corporation and to the United States of America, Corps of Engineers granting the right to enter upon and fill with earth, sand or other suitable materials as are excavated or removed from the right of way required for the Galena Flood Control Project.
7. Possible right, title and interest of Leonard D. Richman in and to that portion of the premises in question lying in the Southeast Quarter of the Southeast Quarter of Section 25, and the North Half of Section 36, by virtue of Affidavit of Adverse Possession dated February 25, 1999 and recorded July 22, 1999 as Document No. 268678.
8. Easement in favor of adjoining land owners to use a portion of the railroad right of way for ingress and egress.
9. Provisions contained in various deeds conveying portions of the premises in question to the Railroad Company providing for crossings with gates and bars, and/or underground passes for livestock and wagons.
10. The legal description contained in this commitment is used for convenience only. In order to insure the land, the Company will require a survey be prepared to more accurately describe the land; and this Commitment is subject to such further exceptions as may then be deemed necessary.

11. Rights or claims of parties in possession not shown of record; encroachments, overlaps, boundary line disputes; and any matters which would be disclosed by an accurate survey; easements and claims of easements not shown of record.

**End of Schedule B**

H. B. Wilkinson Title Company

By: Daniel D. Mennens  
Authorized Signatory

## CONDITIONS AND STIPULATIONS

1. The term "mortgage," when used herein, shall include deed of trust, trust deed, or other security instrument.
2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interest or mortgage thereon covered by this Commitment, other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.
3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions, the Conditions and Stipulations, and the Exclusions from Coverage of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.
4. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or the status of the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

## GENERAL EXCEPTIONS IN POLICIES

The owners policy will be subject to the following General Exceptions: (1) Rights or claims of parties in possession not shown by the public records; (2) Encroachments, overlaps, boundary line disputes, and any matters which would be disclosed by an accurate survey and inspection of the premises; (3) Easements, or claims of easements, not shown by the public records; (4) Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records; (5) Taxes or special assessments which are not shown as existing liens by the public records.

The G or H form loan policy will be subject to the foregoing General Exceptions (4) and (5), and the H form will also be subject to: Consequences of the failure of the lender to pay out properly the whole or any part of the loan secured by the trust deed or mortgage covered by the Commitment, as affecting: (a) The validity of the lien of said trust deed or mortgage; and (b) The priority of the lien over any other right, claim, lien or encumbrance which has or may become superior to the lien of said trust deed or mortgage before the disbursement of the entire proceeds of the loan.

## SCHEDULE B

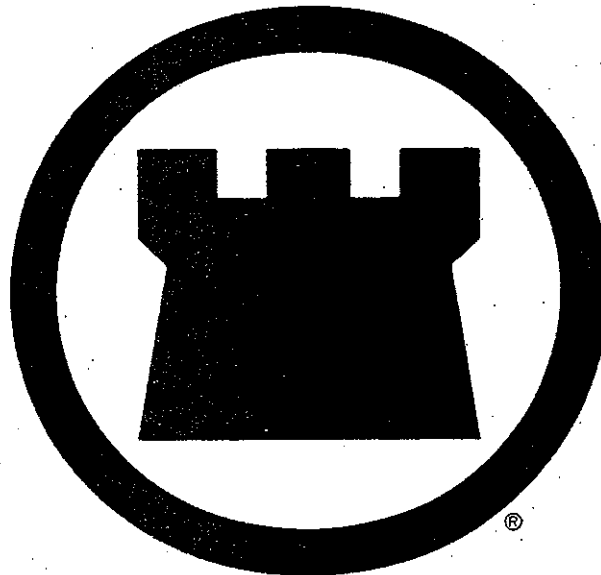
Schedule B of the policy or policies to be issued will contain the applicable General Exceptions (see above); and, if an owners policy is to be issued, the encumbrance, if any, shown in Schedule A; and exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

(1) Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed Insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

(2) An ALTA LOAN POLICY will be subject to the following exceptions (a) and (b), in the absence of the production of the data and other essential matters described in our Form 3735. (a) Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records; (b) Consequences of the failure of the lender to pay out properly the whole or any part of the loan secured by the mortgage described in Schedule A, as affecting: (i) the validity of the lien of said mortgage; and (ii) the priority of the lien over any other right, claim, lien or encumbrance which has or may become superior to the lien of said mortgage before the disbursement of the entire proceeds of the loan.



# Chicago Title Insurance Company



Principal Office

171 NORTH CLARK STREET • CHICAGO, ILLINOIS 60601-3294

*Providing Title Related Services Since 1847*

# RAIL PROPERTY MANAGEMENT

Alice M. O'Donnell

57 Ogden Avenue  
Clarendon Hills, IL 60514  
Direct Line: 630-325-6726  
Fax: 630-325-6908  
e-mail: sales@railproperty.com

July 20, 2001

Mr. Mark Moran  
City Administrator  
312 ½ N. Main Street  
Galena, IL 61036

Re: Burlington Northern & Santa Fe Railway (BNSF) Property, Galena to Galena Jct.  
Property in Illinois

Dear Mark:

As requested, I have enclosed the Burlington Northern & Santa Fe Railway's standard real estate contract form for the City's attorney's review. This is the standard form which the railroad uses whenever a City is purchasing an abandoned right of way. I have also added an Addendum which addresses several items that are unique to this situation.

In order to simplify this letter somewhat, I have divided it into three sections that consists of: 1) The current accepted methodology used in evaluating an abandoned rail line, 2) An offer amount that the railroad should entertain for the subject property, subject to its final review process and 3) What the City will need to do when it decides to proceed.

## Methodology:

There is a "misconception" that abandoned railroad right of way property has no real value. Indeed, just the opposite is true!

First, a right of way forms a contiguous corridor. Therefore, as such, it is believed that it has special economic and/or social benefit to the community in which it is located. An existing corridor, such as the subject can be utilized for many purposes, for example: 1) roads, 2) pipelines for oil, gas, etc. 3) fiber optic or coaxial cable, 4) water, sanitary or storm sewer lines, 5) flood control and emergency vehicle access, as well as 6) various types of recreational parks, including, but not limited to, hiking, biking and/or bridle paths.

These social and economic benefits are especially true for the City of Galena when it purchases this right of way. For now, the subject property can be developed as a trail which will not only attract additional tourism, but enhance the lives of many of the City of Galena's residents. However, it would be myopic to believe that a trail is the only potential use of this property. Consider the fact that this right of way has a minimum width of 100 feet and as such, this corridor offers the greatest potential for multiple uses. For example, while this property is currently being utilized by some of

EXHIBIT

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the adjacent landowners as access, it can be widened as a regular street, thus, opening up a large area for potential residential and/or commercial development. It can further provide an avenue to install water, sewer, gas, electric, and cable lines to these developments while still accommodating a trail.

In addition, sections of this right of way can be utilized for levees, while a portion of the larger parcel could be developed into a retention pond, thus, alleviating some of the flooding problems.

Second, in recent years the railroads, the appraisers who possess the expertise to appraise a "right of way" and even the IRS have recognized that this type of corridor possesses certain characteristics that cannot be readily duplicated. Consider, for example, the time and effort it would take to purchase individual strips of land in order to form a long corridor such as the BNSF's property and the resulting legal expenses to do so. In addition, consider the labor and cost of building a trail from scratch. Basically this procedure could be tantamount to filling an Olympic size pool with an eye dropper and the cost, more prohibitive to do so than the purchase of this parcel in its entirety.

Consequently, with the realization that 1) this type of property can be utilized in a number of different ways and 2) that a corridor cannot be readily duplicated, a totally different valuation philosophy was born. This philosophy is quite different from the philosophy utilized as early as five years ago.

Further, under the current methodology not only is an additional assemblage value warranted due to the contiguous nature of the right of way, but also, consistent with the IRS rules and regulations, a value is warranted for the existing site improvements as well as that of the physical characteristics of the subject property. These improvements include such items as bridges, culverts, gravel and earthwork as long as they are valued in accordance with their condition and function. The Cost Approach is then utilized. However, since sale data for this type of "special use" property in the immediate area are virtually nonexistent, adjacent land sales can be useful in determining the value of contributing strips of land within the corridor. This land value is seen as a component of the entire value of the abandoned rail line.

Now, in this case, I have valued only the land. Consequently, I have looked at vacant land sales near or within the surround area of the subject property, adjusting them accordingly in order to determine the "Across the Fence" value of the contributing strips of land that make up this corridor. This value was then adjusted by a 25% assemblage value. I, however, have not placed any value on the improvements within this corridor; that is, the value of the culverts, earthwork, etc. Therefore, it is possible that the railroad may wish to obtain an appraiser to evaluate these improvements at a later date. Should this happen, I believe the railroad will allow me to add the improvement value to the contract as a donation.

#### **What the railroad will entertain.**

Based on these values and discussions with management, I believe the railroad will entertain a cash offer of \$281,876.00 for the land only, consisting of the 61.5 acres as highlighted in yellow on Exhibit A.

**PLEASE UNDERSTAND THAT ALL OFFERS RECEIVED FOR THE PURCHASE OF THE BURLINGTON NORTHERN & SANTA FE RAILWAY PROPERTY MUST BE**

**SUBMITTED TO RAILROAD'S MANAGEMENT FOR THEIR FINAL REVIEW AND CONSIDERATION. THIS REVIEW PROCESS MAY TAKE FROM 90 TO 180 DAYS. NO ACCEPTANCE IS IMPLIED ON THE PART OF THE BURLINGTON NORTHERN & SANTA FE RAILWAY UNLESS YOU RECEIVE A FULLY EXECUTED COUNTERPART OF THE CONTRACT SIGNED BY THE RAILROAD'S MANAGEMENT. THE RAILROAD RESERVES THE RIGHT TO ACCEPT AND REJECT ALL OFFERS DURING THIS FINAL REVIEW PROCESS.**

**What the City will need to do.**

First, during our last meeting, you indicated that the city will need to acquire an appraisal before submitting an offer. In doing so, I suggest that the city hire an appraiser, who has the credentials in and the expertise to evaluate a corridor. Just as there are doctors who specialize in heart surgery or eye surgery, there are appraisers who specialize in corridor appraisals.

Second, as we discussed, if it is the intention of the city to have the trail patrons park in the city's parking lot along the east side of the river, the city will need to also acquire a portion of the Chicago, Central and Pacific Railroad Company's (CCP) property. Therefore, I have also enclosed the CCP's contract form for its parcel located south of its active track, which is contingent upon the railroad providing the City with a pedestrian crossing, etc. However, in order to determine whether there is a gap in the continuity of this proposed trail north of CCP's active track, I'll need a copy of the City's acquisition deed for its parking area. After I have this last piece together, it will be the City's responsibility to verify that a continuous right of way is indeed being purchased in order to access its parking areas from the proposed trail.

Third, after the city completes its appraisal and if the above is agreeable, the city will need to execute two copies of the railroad's standard real estate contract, returning them to my attention. An earnest money deposit check must accompany that offer. Please have the check made payable to the Burlington Northern & Santa Fe Railway Company. Upon receipt, it will be submitted through the railroad's final approval process stated about. Should the railroad reject the city's offer, they will fully refund the city's deposit. If, however, the railroad accepts the city's offer, the city will receive a fully-executed contract along with a copy of the proposed deed of conveyance and closing instructions.

**I'll give you a week or two to digest this before I call you. However, if either you or the city council members have any questions in the interim, please do not hesitate to call me.**

Respectfully submitted,



Alice M. O'Donnell

# BNSF

Property & Facilities Management  
2650 Lou Menk Drive  
Fort Worth, Texas 76131-2830

## PROPERTY MANAGEMENT

The City of Galen, Illinois, hereinafter called the Buyer, under threat of the exercise of its power of *Eminent Domains* offers to acquire from the Burlington Northern and Santa Fe Railway Company (BNSF), hereinafter called the Seller, Seller's interest in the abandoned railroad right of way located from Galena to Galena Jct., Illinois, as shown *highlighted in yellow on Exhibit "A"* attached hereto and made a part hereof.

Seller will convey its interests in the parcel to Buyer for a purchase price of \$281,876.00. Seller will convey its interest by quitclaim deed. Seller makes no representations or warranties whatsoever. Buyer, expressly acknowledges that Buyer is acquiring Seller's interest in the parcel in an "AS IS" condition and that Buyer has relied upon its own independent investigation of the physical condition of the parcel. Buyer agrees to release and indemnify Seller and Seller's shareholders, officers, directors, agents and employees from all responsibility and liability regarding the condition (including, but not limited to, the physical condition or presence of hazardous materials), valuation or utility of the parcel. Any outstanding taxes and costs for survey, abstract, title insurance, documentary stamps, and other costs, are Buyer's responsibility. Buyer further agrees to indemnify Seller from future responsibility for the construction and maintenance of any railroad fences, road crossings, cattle guards, gates, farm crossings, buildings, and drainage or irrigation pipes located on or adjacent to the parcel to be conveyed.

Buyer understands the foregoing. Buyer further understands that railroad property may be subject to reversion on abandonment of use for railroad purposes; that Seller's quitclaim deed conveys only whatever interests it may have in the parcel, if any; and that the deed does not necessarily convey fee title or give Buyer ownership of the parcel as against the claims of anyone other than Seller. Buyer herewith deposits as earnest money the sum of \$5,000.00 to be applied against the purchase price. Notwithstanding anything set forth herein to the contrary, the balance of the purchase price shall be due ten (10) days from notice that Seller's deed is ready for delivery. Time is of the essence of this contract, and if Buyer shall default or fail to perform the requirements of this contract within the time limits herein specified, the Seller may retain the deposit as agreed liquidated damages and just compensation, and not as a penalty or forfeiture, and declare this contract terminated. In the event of default by Seller, Buyer's sole remedy shall be a return of the earnest money deposit.

Effective with the date of sale, Seller will assign to Buyer Lease No. N/A covering all or a portion of the subject parcel.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Printed below is the name(s) and address(es) as they should appear in the deed of conveyance:

\_\_\_\_\_  
\_\_\_\_\_

Buyer's Phone: \_\_\_\_\_

ACCEPTED BY: BURLINGTON NORTHERN & SANTA FE RAILWAY COMPANY

By: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_



## ADDENDUM

1) **GRANT.** This contract is subject to the condition that Buyer will be able to procure by \_\_\_\_\_, 2001 a governmental grant for \_\_\_\_\_ percent of the purchase price. If, after making every reasonable effort, Buyer is unable to procure such funding within the time specified herein and so notifies Seller in writing thereof on or before said time, this contract shall become null and void. However, in the event Buyer fails to notify Seller by \_\_\_\_\_, 2001, Buyer shall be deemed to have waived this condition and this contract shall remain in full force and effect.

2) **RESERVATION OF A NON-EXCLUSIVE ROADWAY AND UTILITY EASEMENT.** In the quitclaim deed of conveyance, Seller shall reserve for itself, its successors, and assigns, and grantees, a perpetual non-exclusive easement on, over and across the property for a non-exclusive roadway easement for ingress and egress and utility easement together with the right to construct, repair, renew, use, and replace for so long as the same shall be required by Seller, its successors, assigns and grantees.

3) **USE OF PROPERTY BY OTHERS.** Buyer acknowledges that it has made a visual inspection of the property and is aware and acknowledges that adjacent landowners are utilizing the subject property as an access road. By acceptance of the quitclaim deed Buyer acknowledges that a material consideration for the conveyance, without which it would not be made, is the agreement by Buyer and its assigns that the Seller, its predecessors and successors, and assigns shall be in no manner responsible to Buyer, any subsequent owner, purchaser, lessee, or any person interested therein or to any landowner lying adjacent to the subject property, or any prior owners and heirs, or any users of the subject property for any and all claims, demands, damages, causes of action including loss of access, or suits regarding the quiet and peaceful possession of premises, title thereto, or condition thereof.

4) **EVIDENCE OF TITLE.** Within the sixty (60) days following Seller's acceptance of this offer, Buyer, at its expense, may obtain evidence of title to the premises, in the form of an abstract of title or a title commitment. In the event Buyer notifies Seller within said sixty (60) days period with a written statement specifying matters or defects other than said permitted exceptions and reservations as set forth herein and other than such usual exceptions contained in Owner's policies and the matters to which this sale is subject by the terms hereof, the time of payment of the balance of the purchase price shall be extended for a period of thirty (30) days after the receipt of said evidence of title and statement. If Seller is unable or unwilling to cure such matters or defects within said thirty (30) day period, and Buyer is unwilling to accept the deed subject to such matters or defects then either party may terminate this Agreement by serving written notice of termination upon the other party within three (3) days thereafter and all further rights and liabilities under this Agreement shall cease and terminate except that Seller shall return the deposit to Buyer.

**BUYER:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**ACCEPTED BY: THE BURLINGTON NORTHERN & SANTA FE RAILWAY CO.**

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_